



March 4, 2026

VIA E-FILING

Jonathan P. Nase

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Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
400 North Street, 2nd Floor
Harrisburg, PA 17120

Re: Application of Greater Hazleton Community Area New Development Organization Inc. t/a CAN DO, Inc. (Water Division), Pursuant to Section 1102(a) of the Pennsylvania Public Utility Code, for Approval of (1) the Right to Offer, Render, Furnish or Supply Water Service To the Public in an Additional Portion of Hazle Township, together with portions of Sugarloaf Township and West Hazleton Borough, all in Luzerne County, Pennsylvania and (2) the Abandonment of Portions of its Water Service Territory in Hazle Township, Luzerne County, Pennsylvania and East Union Township, Schuylkill County, Pennsylvania; Docket No. A-2026-3059809

Preliminary Objection to Protest of Patricia Kisenwether

Dear Secretary Homsher:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Preliminary Objection of the Greater Hazleton Community Area New Development Organization Inc. t/a CAN DO, Inc. (Water Division) to the Protest of Patricia Kisenwether. Copies have been served as shown on the attached Certificate of Service.

Thank you for your attention to this filing. If you have any questions regarding this filing, please feel free to contact me.

Sincerely,

Cozen O'Connor

By: Jonathan P. Nase

Counsel for

**Greater Hazleton Community Area New
Development Organization Inc. t/a CAN
DO, Inc. (Water Division)**

JPN:kmg
Enclosures

Matthew L. Homsher, Secretary

March 4, 2026

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cc: Administrative Law Judge Emily A. Farren
Administrative Law Judge Steven K. Haas
Per Certificate of Service
Joseph Lettiere, President and CEO, CAN DO
Raina Nichols, Director of Utilities, CAN DO

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Greater Hazleton Community :
Area New Development Organization Inc. t/a :
CAN DO, Inc. (Water Division), Pursuant to :
Section 1102(a) of the Pennsylvania Public : Docket No. A-2026-3059809
Utility Code, for Approval of (1) the Right to :
Offer, Render, Furnish or Supply Water :
Service To the Public in an Additional Portion :
of Hazle Township, together with portions of :
Sugarloaf Township and West Hazleton :
Borough, Luzerne County, Pennsylvania and :
(2) the Abandonment of Portions of its Water :
Service Territory in Hazle Township, Luzerne :
County, Pennsylvania and East Union :
Township, Schuylkill County, Pennsylvania :

CERTIFICATE OF SERVICE

I hereby certify that I have this 4th day of March, 2026 served a true copy of the foregoing **Preliminary Objection to the Protest of Patricia Kisenwether** upon the parties, listed below and in the manner described below in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

Via E-mail and First Class Mail

Patricia Kisenwether
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Sugarloaf, PA 18249
pkisenwether@gmail.com

Jennifer Yanni
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White Haven, PA 18661
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Lisa Logan
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Melissa and Jason Ritz
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Respectfully submitted,



Jonathan P. Nase, Esq.
Counsel for *Greater Hazleton Community Area New
Development Organization Inc. t/a CAN DO, Inc.
(Water Division)*

VERIFICATION

I, Joseph Lettiere, President and Chief Executive Officer of Can Do, Inc., hereby state that the facts set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: March 4, 2026



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Township, Schuylkill County, Pennsylvania :

NOTICE TO PLEAD

YOU ARE HEREBY ADVISED THAT, PURSUANT TO THE REGULATIONS OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION AT 52 PA. CODE § 5.101(f), YOU MAY FILE AN ANSWER TO THE ENCLOSED PRELIMINARY OBJECTION WITH THE SECRETARY'S BUREAU OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION AT THE FOLLOWING ADDRESS:

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street – Filing Room (2nd Floor)
P.O. Box 3265
Harrisburg, PA 17105-3265

AN ANSWER MAY BE FILED WITHIN TEN (10) DAYS OF THE DATE OF SERVICE OF THIS PRELIMINARY OBJECTION. FOR MORE INFORMATION REGARDING THE FILING OF AN ANSWER, PLEASE CONTACT THE SECRETARY'S BUREAU AT (717) 772-7777. A COPY OF ANY ANSWER SHOULD BE SERVED ON THE UNDERSIGNED COUNSEL.

[Signature appears on next page.]



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Service Territory in Hazle Township, Luzerne :
County, Pennsylvania and East Union :
Township, Schuylkill County, Pennsylvania :

PRELIMINARY OBJECTION OF GREATER HAZLETON COMMUNITY AREA NEW
DEVELOPMENT ORGANIZATION INC. T/A CAN DO, INC. (WATER DIVISION) TO THE
PROTEST OF PATRICIA KISENWETHER

AND NOW COMES Greater Hazleton Community Area New Development Organization Inc. t/a CAN DO, Inc. (Water Division) (“CAN DO” or “Applicant”) to file this Preliminary Objection to the Protest (“Protest”) of Patricia Kisenwether (“Kisenwether” or “Protestant”), which was filed on February 12, 2026 and e-mailed to CAN DO’s counsel on February 12, 2026. CAN DO respectfully submits that this Protest should be dismissed with prejudice due to lack of standing. Protestant is not located within the service areas proposed for expansion or abandonment, is not a customer of the Applicant, and her water service will not be impacted by the proposal in the Application. Consequently, Protestant fails to demonstrate the “direct, immediate, and substantial interest” required for standing in a Commission proceeding and the Protest should be dismissed.

In support whereof, CAN DO avers as follows:

I. Procedural Background

1. The underlying proceeding involves the Application of CAN DO (the “Application”) seeking the issuance of Certificates of Public Convenience pursuant to Section 1102(a) of the Pennsylvania Public Utility Code (the “Code”), 66 Pa. C.S. § 1102(a), for: (1) the expansion of its service territory to include an additional portion of Hazle Township, together with portions of Sugarloaf Township and West Hazleton Borough, all in Luzerne County, Pennsylvania (the “Expansion”), and (2) the abandonment of portions of its service territory in Hazle Township, Luzerne County, Pennsylvania and East Union Township, Schuylkill County, Pennsylvania (the “Abandonment”).

2. CAN DO’s Application was filed on January 13, 2026, and was refiled on January 22, 2026 with an administrative amendment.¹

3. On February 12, 2026, Protestant filed a Protest in this Docket.

II. Factual Background

4. The Application, *inter alia*, seeks authority to provide water service to parcels of land owned by NP Hazleton Holdings 1, LLC (“NP Hazleton”) and located in Hazle Township, Sugarloaf Township, and West Hazletown Borough, which is adjacent to CAN DO’s existing service territory at the Humboldt Industrial Park (the “Requested Service Territory”). Application ¶ 7.

5. The Protest, in pertinent part, states as follows:

- a. **“Standing.** I am a property owner located off of Larock Road in Sugarloaf [Township] and my home address is 96 Mt. Laurel Trail, Sugarloaf, PA (Black

¹ The Application was refiled only to re-designate Exhibit 6 as Confidential rather than Confidential Security Information as directed by the Staff from the Bureau of Technical Utility Services (“TUS”).

Creek [Township]. The proposed expansion and abandonment directly affect water availability, service reliability, land use, and public safety in my community.”

Protest ¶ 1.

b. **“Grounds for Protest.** I oppose the Application on the following grounds:

- The Applicant has not demonstrated that the proposed expansion meets the statutory requirement of public convenience and necessity under 66 Pa. C.S. §1102.
- The Application appears inconsistent with existing municipal planning, zoning, and infrastructure approvals, and may conflict with ongoing regulatory reviews.
- The proposed abandonment may adversely affect existing or future customers in Hazle Township and East Union Township by reducing service options or creating gaps in coverage.
- The Applicant has not adequately demonstrated technical, legal, or financial fitness to serve the expanded territory.
- The record lacks sufficient information on environmental, hydrologic, and fire-protection impacts, including potential strain on existing water sources.” Protest ¶ 2.

III. Legal Standard

6. The Commission’s regulations permit a party to file preliminary objections in response to a pleading for certain enumerated reasons, including but not limited to lack of standing of a party to participate in the proceeding. 52 Pa. Code § 5.101(a)(7).

7. When filing a protest to an application pursuant to 52 Pa. Code § 5.52 the protest must: (1) set out clearly and concisely the facts from which the alleged interest or right of the protestant can be determined; (2) state the grounds of the protest; and (3) set forth the facts establishing the protestant’s standing to protest. 52 Pa. Code § 5.52(a)(1)-(3).

8. When ruling on preliminary objections, the Presiding Officer must accept as true all well-pleaded allegations of material facts as well as all inferences reasonably deducible

therefrom. *Stilp v. Cmwlth.*, 910 A.2d 775, 781 (Pa. Cmwlth. 2006) (citing *Dep't of General Serv. v. Bd. of Claims*, 881 A.2d 14 (Pa. Cmwlth. 2005)). In order to sustain preliminary objections, it must appear with certainty that the law will permit no recovery, and any doubt must be resolved in favor of the non-moving party. *Key v. Dep't of Corr.*, 185 A.3d 421, 423 n.3 (Pa. Cmwlth. 2018). However, the Presiding Officer does not need to accept as true conclusions of law, unwarranted inferences from facts, argumentative allegations, or expressions of opinion. *Id.* at 426.

9. The provision at 52 Pa. Code § 5.101(a)(7) permits the filing of a preliminary objection to dismiss a pleading for insufficient standing of a party to participate in a proceeding. To satisfy the requirement of standing, the party must be “aggrieved,” meaning that the party must have a “substantial, direct, and immediate interest in the matter.” *Markham v. Wolf*, 136 A.3d 134, 140 (Pa. 2016) (emphasis added).

- a. For an interest to be substantial, the party’s concern in the matter “must surpass ‘the common interest of all citizens in procuring obedience to the law.’” *Id.* (citations omitted). In order to be substantial, there must be some “discernible adverse effect” beyond the general duty to comply with the law. *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 282 (Pa. 1975) (plurality).
- b. For an interest to be direct, the party must establish “that the matter caused harm to the party’s interest.” *Markham*, 136 A.3d at 1243. (internal quotation marks omitted). To be “direct,” a complainant must demonstrate “causation of the harm to his interest by the matter of which he complains.” *Wm. Penn Parking Garage*, 346 A.2d at 282.

- c. Finally, the concern will only be considered immediate “if that causal connection is not remote or speculative.” *Markham*, 136 A.3d at 140-41 (internal quotation marks omitted). In order to be “immediate,” the harm must be more than a mere “remote consequence.” *Wm. Penn Parking Garage*, 346 A.3d at 282-83.

10. For the reasons set forth below, Protestant fails to demonstrate an interest in the Application that is substantial, direct, and immediate, as required for standing in a Commission proceeding, and the Protest should be dismissed.

IV. Preliminary Objection: The Protest Should be Dismissed for Lack of Standing.

11. Protestant claims to have a substantial, direct, and immediate interest in the Application because the “proposed expansion and abandonment directly affect water availability, service reliability, land use, and public safety in my community.” Protest ¶ 1.

A. Protestant Lacks a Substantial Interest.

12. Protestant is neither a resident nor a property owner within the subject territories for Abandonment or Expansion, and Protestant therefore has no interest distinct from the general public.

13. Protestant states that she is a “property owner located off of Larock Road in Sugarloaf [Township] and my home address is 96 Mt. Laurel Trail, Sugarloaf, PA (Black Creek [Township]).” Protest ¶ 1.

14. Neither Protestant’s property located off of Larock Road nor her home address in Black Creek Township are located in the portions of Sugarloaf Township, Hazle Township, or West Hazleton Borough that are referenced for Expansion in the Requested Service Territory.

15. Neither Protestant’s property located off of Larock Road in Sugarloaf Township, nor her home address in Black Creek Township, are located in the portions of Hazle Township or East Union Township that are referenced in the Abandonment.

16. Protestant is not an existing CAN DO customer.

17. By and through its Application, CAN DO is not seeking to serve Protestant, expand its service territory to include Protestant's property or home address, or abandon service to Protestant.

18. Protestant has failed to allege any facts to demonstrate a substantial interest distinct from the general public. For example, the Protestant does not state the source of her water. Therefore, it is impossible to determine how the Application will adversely impact her water availability or the reliability of her water service.

19. CAN DO's proposed expansion into additional portions of Hazle Township, and small portions of Sugarloaf Township and West Hazleton Borough, will have no impact on land use in the Protestant's community because she is located outside of the proposed Expansion service territory.

20. The Protest does not include any facts or information from which a finder of fact could establish a "discernible adverse effect" for the Protestant, and the Protest therefore fails to establish substantial impacts to any interest. As set forth in *Key*, discussed above, the Presiding Officer must accept as true all well-pleaded facts but does not need to accept as true argumentative allegations, or expressions of opinion.

B. Protestant Lacks a Direct Interest.

21. In addition to Protestant not being located within either the Expansion or the Abandonment areas, there is no causal connection between the Commission's approval of the

Application and any harm to Protestant’s existing “water availability, service reliability, land use, or public safety in [her] community.” Protest ¶ 1.

22. To establish “direct” harm, a complainant must demonstrate “causation of the harm to his interest by the matter of which he complains.” *Wm. Penn Parking Garage*, 346 A.3d at 282. Here, the Protest alleges no ‘causal connection’ between the Commission’s approval of the Application and any harm to Protestant.

23. The Protestant’s water sources or service reliability will not be impacted by either the Expansion or the Abandonment. Applicant is not proposing the utilization of additional water sources, nor is it seeking increased withdrawal limits. Rather, CAN DO is proposing to utilize the existing water supply sources² at their current levels as part of its Expansion.

24. As set forth in the Application: NP Hazleton has requested service of up to 30,000 gallons per day (“gpd”) of water for domestic water and fire service;³ and the Humboldt Industrial Park system has a total daily system capacity of 1,478,000 gpd⁴ with an additional backup capacity of 3.8 million gpd available to meet customers’ daily needs.

25. Accordingly, there is adequate existing system capacity in CAN DO’s Humboldt Industrial Park system to offer, render, furnish, or supply 30,000 gpd of domestic water and

² CAN DO’s Humboldt Industrial Park system is a distribution system with five wells, four storage tanks, water treatment facilities, distribution mains, and associated appurtenances. Application ¶ 4. In addition, CAN DO purchases water daily through an interconnection with a neighboring system owned by the Hazleton City Authority (“HCA”). *Id.*

³ Application ¶ 9. Domestic water services include providing potable water for daily needs (drinking, washing) and fire services include supplying water specifically for fire suppression, often including dedicated sprinklers and hydrants. For context, the requested 30,000 gpd for domestic water service is similar to the daily usage of CAN DO’s existing commercial and industrial customers in the Humboldt Industrial Park.

⁴ CAN DO’s Humboldt Industrial Park system is permitted for 978,000 gpd and, through the interconnection with the neighboring system owned by the HCA, has a 200,000 gpd take-or-pay commitment and the hydraulic ability to purchase up to 500,000 gpd. Application ¶ 16.

provide fire service to the Requested Service Territory without impact to neighboring water systems or nearby wells. *See* Application ¶¶ 9-18.

26. CAN DO's existing water supply has sufficient capacity to furnish service in the Requested Service Territory (regardless of the Commission's decision on the proposed Abandonment). For avoidance of doubt, CAN DO is not proposing to tap or expand any new water sources for the Expansion or the Abandonment, CAN DO will not need to build any additional water wells or seek access to any new sources of water in order to serve the Requested Service Territory referenced in the Application, and therefore there are no physical or hydrological changes being proposed in the Application that could impact the Protestant's separate water supply.

27. Therefore, CAN DO's Expansion will have no adverse effect on the availability of water or the reliability of service furnished to Protestant who is located outside of the proposed Expansion and Abandonment service territories. .

28. Likewise, the Abandonment in Hazle Township and East Union Township will not have a direct adverse affect on Protestant because she is located outside of the proposed Expansion and Abandonment service territories.

29. Likewise, CAN DO's proposed expansion into additional portions of Hazle Township, and small portions of Sugarloaf Township and West Hazleton Borough, will have no impact on land use in the Protestant's community because she is located outside of the proposed Expansion and Abandonment service territories.

30. Protestant has not alleged any facts establishing a causal connection between the Application and adverse impacts on public safety in areas located outside of the proposed Expansion and Abandonment service territories. As discussed above, the Presiding Officer must

accept as true all well-pleaded facts but does not need to accept as true argumentative allegations, or expressions of opinion. *Key, supra*.

31. As such, Protestant has failed to demonstrate any direct interest in the Expansion or Abandonment set forth in the Application and the Protest fails to establish direct harm.

C. Protestant Fails to Demonstrate Immediate Interest in the Application

32. Protestant's objections appear based on generalized concerns regarding impacts to "water availability, service reliability, land use, and public safety in my community." Protest ¶ 1.

33. The Pennsylvania Supreme Court held that for an interest to be "immediate," the protection of the law must be "aimed at" the specific interest the protestant is seeking to protect. *Wm. Penn Parking Garage* at 269, 282.

34. Here, when the Protestant is located outside the proposed expansion and abandonment areas, and no new water sources are being utilized, the claims in the Protest fail the "immediate interest" test for at least the following reasons: the Protest is speculative as to causation and is based on a series of uncertain future events; any claim of environmental or resource harm is legally remote when there is no factual basis for vague claims about "water availability, service reliability, land use, and public safety in my community;" and standing cannot be based on "aspirational" concerns or generalized public benefits. *Wm. Penn Parking Garage*, 346 A.2d at 282.

35. The Protest does not allege that the Protestant has the requisite substantial, direct, and immediate interest in the Application that is required of a party to establish standing to participate in the proceeding. *See Markham*, 136 A.3d at 140.

36. Other than the aforementioned general assertions, the Protest fails to establish that the Expansion or Abandonment is "aimed at" any immediate interest of the Protestant, and the

Protestant also fails to provide any facts that would establish that she has an interest or concern in the matter that surpasses that of any other citizen. Even when accepting as true all well-pleaded facts, the Presiding Officer does not need to accept as true argumentative allegations, or expressions of opinion. *See Key, supra.*

37. As such, CAN DO's proposed expansion into additional portions of Hazle Township, and small portions of Sugarloaf Township and West Hazleton Borough, and its proposed abandonment of portions of Hazle and East Union Townships, will have no immediate impact on the Protestant because she is located outside of the Expansion and Abandonment service territories.

38. Accordingly, dismissal of the Protest due to insufficient standing of a party to participate in the proceeding is warranted and CAN DO's preliminary objection on this basis should be sustained.

V. Conclusion and Request for Relief

WHEREFORE, for the reasons stated above, CAN DO respectfully requests that:

- (1) the Preliminary Objection be GRANTED; and that
- (2) the Protest be DISMISSED in its entirety and with prejudice.

[Signature appears on next page.]

Respectfully submitted,



Jonathan P. Nase, Esq. (PA ID No. 44003)

Dawn Kurtz Crompton (PA ID No. 311701)

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